

SOUTH CAROLINA PUBLIC SERVICE COMMISSION

STANDING HEARING OFFICER DIRECTIVE

DOCKET NOS. 2017-2-E and 2018-2-E - ORDER NO. 2018-42-H

APRIL 5, 2018

Standing Hearing Officer: David Butler

DOCKET DESCRIPTION:

Annual Review of Base Rates for Fuel Costs of South Carolina Electric & Gas Company

Annual Review of Base Rates for Fuel Costs of South Carolina Electric & Gas Company

MATTER UNDER CONSIDERATION:

Petition for an Order Requiring South Carolina Electric & Gas Company to Comply with Commission Order No. 2018-55

STANDING HEARING OFFICER'S ACTION:

This matter comes before this Standing Hearing Officer on the Petition of the South Carolina Coastal Conservation League ("SCCCL") and Southern Alliance for Clean Energy ("SACE") (together, the "Petitioners") for an Order requiring South Carolina Electric & Gas Company ("SCE&G" or the "Company") to comply with Commission Order No. 2018-55, dated January 24, 2018.

By way of background, the Petitioners state that in the Docket No. 2017-2-E SCE&G fuel docket, specifically in Order No. 2017-246, the Commission granted SCE&G's request to update avoided cost rates every six months. On December 22, 2017, SCE&G requested a waiver of the provision that it file a six-month update to avoided cost rates, citing, among other things, uncertainty due to recent events such as the abandonment of new nuclear units at the V.C. Summer Station. The Petitioners and other objected to the waiver request, expressing concern that there would be significant proposed changes to the methodology that would be inconsistent with federal law, and other authorities. On January 24, 2018, the Commission issued Order No. 2018-55 in Docket No. 2017-2-E, granting SCE&G's request for a waiver. The Commission agreed in that Order that uncertainty driven by recent events, as well as judicial economy, warranted addressing the issues raised in the context of the annual fuel proceeding. The Commission also noted that any proposed changes to avoided cost calculations should be considered in the next annual fuel proceeding, which was scheduled for hearing on April 10, 2018. Order No. 2018-55 also

adopted the request of the Petitioners that SCE&G be required put the proposed rate in its pre-filed testimony in the fuel proceeding.

The Petitioners argue that it appears that the methodology utilized by SCE&G to calculate avoided cost values in its testimony filed on February 23, 2018, has been significantly altered from the methodology that was approved by the Commission in Docket No. 2017-2-E. In last year's filing, SCE&G used, according to the Petitioners, a capacity valuation methodology where it first calculated the capacity value over a 15-year planning period using a difference in revenue requirement methodology. Then it allocated that capacity value based on the frequency with which load was within 95% of seasonal peak. This year, the Petitioners state that the Company took the position that QF capacity has no value at all because it does not provide peak contribution in the winter. The Petitioners assert that this is a completely different methodology that has profound impacts on the capacity value of qualifying facilities, and that SCE&G has used updated inputs also to calculate avoided cost values. The Petitioners note that all of the avoided cost numbers filed on that date incorporate similar changes to the underlying methodology, but that, to date, no new avoided cost methodology has been approved by the Commission. Their belief is that the "currently approved" avoided cost methodology as "approved" in the 2017 Order must be applied exactly to this year's avoided costs and the PR-2 rate, without change to any parameters except for updated data. Further, the Intervenors state that "SCE&G, having been directed by Order 2017-246 to follow this methodology," has failed to follow the Commission's order.

Accordingly, the Petitioners request that the Commission issue an order requiring SCE&G to "comply with Order No. 2018-55" by filing an updated PR-2 rate based on "approved methodology," and for other relief. The Office of Regulatory Staff supports the relief sought by the Petitioners. However, SCE&G moves to dismiss the Petition.

SCE&G asserts, among other things, that Order No. 2018-55, dated January 24, 2018, clearly states that Rate PR-2 should be appropriately addressed in the context of the fuel case in April, and that the Company "is planning to implement changes to certain aspects of its avoided cost calculation." The Order concluded that SCE&G should be required "to put that proposed rate in its pre-filed testimony." The Commission made no finding in Order 2018-55 that SCE&G should be required to update its Rate PR-2 based on any "prior approved" methodology or that it go into effect as soon as possible. Rather, Order No. 2018-55 specifically sets out that issues regarding updates to Rate PR-2 should be addressed and decided in the fuel case on the basis that it would "promote judicial economy and allow the issue to be addressed expeditiously." According to SCE&G, the pre-filed testimony of Dr. Lynch in Docket No. 2018-2-E contained the proposed Rate PR-2, which reflected the changes in the Company's prior filings. Thus, SCE&G asserts that it is

in compliance with the provisions of Order No. 2018-55, which simply required SCE&G to include its “proposed” Rate PR-2 in its testimony.

I agree. After a review of the relevant documents in this case, I conclude that the SCE&G Motion to Dismiss the Petition must be granted. Clearly, there is no provision of Order No. 2018-55 that requires SCE&G to file an updated PR-2 rate based on a specific methodology, even one that the Commission has previously found reasonable. Further, Order No. 2017-246 does not “approve,” nor require for future use, a methodology, but simply finds the methodology used in that fuel case under Docket No. 2017-2-E to be reasonable under the facts in that case. It is notable that, in Order 2017-246, the Commission, although it does recognize that the 2017 methodology is consistent with the 2016 methodology, does not rule out the consideration of other methodologies, although it rejects an alternate methodology proposed by another witness in that case. Accordingly, the Commission clearly examined the methodology to be used under the facts of the 2017 case, and may allow proposed changes from prior such methodologies, if given the proper evidentiary basis to do so. The South Carolina Supreme Court has held that the Commission may not merely rely on past practices to rule on current cases, without specific evidentiary support. See Porter v. South Carolina Public Service Commission, 333 S.C. 12, 507 S.E. 2d 328 (1998).

It should be pointed out that, although the Commission found in Order No. 2017-246 that the 2017 methodology was consistent with the 2016 methodology, the Commission was not establishing a “standard methodology,” but was only declaring that the 2017 methodology was like the 2016 methodology. Further, the Commission examined each methodology in each respective fuel case, and found each one to be reasonable and prudent, while recognizing the similarity of the two in Order No. 2017-346. It should be noted that the Commission-approved Settlement Agreement in Docket No. 2017-2-E states only that the methodologies used to calculate avoided costs in that case were reasonable and prudent. There is no mention of the methodology used from the year before. See Settlement Agreement attached to Commission Order No. 2017-246 at p. 3. Also, compare and contrast the “consistent” language in that Order discussing avoided cost with the language describing the updated components of value for NEM Distributed Energy Resources between two years. “The updated components of value for NEM Distributed Energy Resources as shown in Table 6 on page 15 of the direct testimony of SCE&G Witness Lynch are reasonable and prudent, comply with the NEM methodology approved by the Commission in Order No. 2015-194...” (emphasis added). If the Commission had intended to approve a standard for avoided cost methodology, it would have used the “comply” terminology described above, i.e. the Commission would have stated that the 2017 methodology complied with the 2016 methodology. This was not the case.

Finally, I would point out that disputes over the proper methodology for calculating avoided costs, and the submission of alternate methodologies are not unique to this Docket. See SCE&G Docket Nos. 2016-2-E and 2017-2-E, for similar disputes. The present Docket is only the latest in a series of such disputes. The Commission must hear each case and decide the case based on the evidence presented. See South Carolina Energy Users Committee v. South Carolina Electric & Gas Company, 410 S.C. 348, 764 S.E. 2d 913 (2014).

In sum, SCE&G's Motion to Dismiss the Petition is granted, based on the discussion herein.